

AUG 17 2005

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of  
Burbank et al.

Examiner: Joseph M. Pelham

Group Art Unit: 3742

For: TISSUE SITE MARKERS FOR  
IN VIVO IMAGING

Serial No.: 10/658,911

**RESPONSE TO OFFICE ACTION**  
**MAILED 05/18/2005**

Filed: September 10, 2003

Docket No.: R0367-01601

## CERTIFICATE OF MAILING/FACSIMILE PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this these papers are being sent by facsimile to (771) 273-8300, Attn: Examiner Joseph M. Pelham, at Mail Stop  
Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 8/17/05, in San Francisco, CA.Mail Stop Amendment  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In the Office Action mailed May 18, 2005, claims 42 and 43 were rejected by the Examiner under judicially created doctrine of obviousness-type double patenting. In response, applicants have filed concurrently herewith a Terminal Disclaimer. Applicants believe that the pending claims are directed to patentable subject matter. Reconsideration and an early allowance are respectfully requested.

Respectfully submitted,

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Am. Docket No. R0367 01601